

ENTERED

June 01, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

H. STUART CAMPBELL, JR., <i>IN HIS</i>	§	
<i>CAPACITY AS EXECUTOR OF THE</i>	§	
<i>ESTATE OF H. STUART CAMPBELL, SR.,</i>	§	
	§	
VS.	§	CIVIL ACTION NO. 3:20-CV-90
	§	
TEXAS TEA RECLAMATION, LLC,	§	
ET AL.	§	

**ORDER ADOPTING MAGISTRATE JUDGE'S
MEMORANDUM AND RECOMMENDATION**

On August 26, 2020, the court referred all dispositive pretrial matters in this case to United States Magistrate Judge Andrew M. Edison under 28 U.S.C. § 636(b)(1)(B). *See* Dkt. 28. On May 6, 2021, Judge Edison filed a memorandum and recommendation, recommending that Defendant Texas Tea Reclamation, LLC's Motion to Dismiss Counts 30–33, 36, and 37 of Plaintiff's Second Amended Complaint (Dkt. 31) be granted. *See* Dkt. 48. Defendants Dymra Williams and John E. Williams, III, joined in this motion to dismiss. *See* Dkt. 32. Judge Edison also recommended that the Williamses' Rule 12(b)(6) Motion to Dismiss Counts 29 and 35 of Plaintiff's Second Amended Complaint (Dkt. 33) be granted in part and denied in part.

The Williamses filed an objection to the memorandum and recommendation on May 19, 2021. *See* Dkt. 53. Plaintiff H. Stuart Campbell, Jr., filed his objections to the memorandum and recommendation on May 20, 2021. *See* Dkt. 54. In accordance with 28 U.S.C. § 636(b)(1)(C), this court is required to "make a de novo determination of those

portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection [has been] made." After conducting this de novo review, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*; *see also* Fed. R. Civ. P. 72(b)(3).

The court has carefully considered the objections; the memorandum and recommendation; the pleadings; and the record. The court accepts Judge Edison's memorandum and recommendation and adopts it as the opinion of the court. It is therefore ordered that:

- (1) Judge Edison's memorandum and recommendation (Dkt. 48) is approved and adopted in its entirety as the holding of the court;
- (2) Texas Tea Reclamation, LLC's Motion to Dismiss Counts 30–33, 36, and 37 of Plaintiff's Second Amended Complaint (Dkt. 31) is granted. Counts 30–33, 36, and 37 are dismissed against all defendants; and
- (3) The Williamses' Motion to Dismiss Counts 29 and 35 of Plaintiff's Second Amended Complaint (Dkt. 33) is granted in part and denied in part. Specifically, Campbell's unjust-enrichment claim against the Williamses is dismissed. Campbell's claim for breach of fiduciary duty against the Williamses survives the motion to dismiss.

All other claims for affirmative relief remain.

Signed on Galveston Island this 1st day of June, 2021.



JEFFREY VINCENT BROWN
UNITED STATES DISTRICT JUDGE